

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EVENEZER CORTEZ MARTINEZ,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:25-CV-0801-K
	§	
U.S. DEPARTMENT OF HOMELAND	§	
SECURITY, U.S. CUSTOMS AND	§	
BORDER PROTECTION, PETE R.	§	
FLORES as Acting Commissioner of US	§	
Customs and Border Patrol, in his official	§	
capacity, and JAYSON AHERN, as Port	§	
Director US Customs and Border Patrol	§	
Dallas Fort Worth Airport, in his official	§	
capacity,	§	
	§	
Defendants.	§	

ORDER

Before the Court is Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction (the "Motion") (Doc. No. 6) and Brief in Support (Doc. No. 7). The Motion is not styled as a request for "*ex parte*" relief and the Brief in Support does not include any specific request for an *ex parte* temporary restraining order. However, the Motion concludes with a "request[] that this Court issue an *ex parte* temporary restraining order" and includes a "Certificate of Reasonable Efforts to Give Notice of TRO and of Conference". Doc. No. 6 at 5. Citing Federal Rule of Civil Procedure 65(b)(1)(B), Plaintiff's counsel outlines her communications on three specific dates (beginning March 28, 2025) with Assistant United States Attorneys (the

“AUSA”) with the United States Attorney’s Office for the Northern District of Texas. *Id.* Plaintiff’s counsel also states that a copy of the Motion and Brief in Support were sent to the AUSA and that efforts are being made “to serve each Defendant, by email, with process and a copy of” Motion and Brief in Support. *Id.* In conclusion, Plaintiff’s counsel avers that, “[b]ecause of the ongoing imminent irreparable damage to Plaintiff, notice should not be required.” *Id.*

“An *ex parte* temporary restraining order is granted only in extraordinary circumstances where the party seeking such relief will suffer immediate and irreparable injury not only by the failure to grant the temporary restraining order but by affording the restrained party advance knowledge that such relief is to be entered.” *Jones v. Bush*, Civ. Action No. 3:00-CV-2543-D, 2000 WL1725195, at *1 (N.D. Tex. Nov. 20, 2000) (Fitzwater, J.). “The normal circumstances for which a district court is justified in proceeding *ex parte* is where notice to the adverse party is impossible, or in cases where the adverse party is unknown or is unable to be found. . . . [or] where ‘notice to the defendant would render fruitless further prosecution of the action.’” *First Command Bank v. Exner*, Civ. Action No. 4:21-CV-0621-P, 2021 WL 4047400, at *1 (N.D. Tex. May 10, 2021) (Pittman, J.)

Plaintiff’s Motion demonstrates that he has been openly communicating with the Government regarding the matters that are the subject of this litigation for several days. “Where there are no practical obstacles to giving notice to the adverse party, an *ex parte* order is justified only if there is no less drastic means for protecting the

plaintiff's interests." *First Command Bank*, 2021 WL 4047400, at *1. Plaintiff has failed to clearly show that he will suffer immediate and irreparable injury not only if the requested relief is not granted but also by giving Defendants notice of this Motion and allowing them to respond. *See Jones*, 2000 WL1725195, at *1. Accordingly, the Court **denies** the request for *ex parte* injunctive relief. However, the Court will consider the merits of the Motion for TRO once Defendants have responded.

The Court **ORDERS** Defendants to respond to Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction (Doc. No. 6) **by Friday, April 4, 2025**.

Plaintiff **SHALL** serve a copy of this Order on each named Defendant immediately upon receipt of the same. Further, Plaintiff **SHALL** file a certificate of service with the Court **by 4:30 p.m., TODAY, April 3, 2025**, affirming that Plaintiff has served this Order on each Defendant.

The Clerk is DIRECTED to email a copy of this Order to:

AUSA Brian Stolz at brian.stoltz@usdoj.gov ; AND

AUSA Lisa Hasday at lisa.hasday@usdoj.gov .

SO ORDERED.

Signed April 3rd, 2025.


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UNITED STATES DISTRICT JUDGE